

LAW OFFICES OF  
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FRANCIS O. CLARKSON  
OF COUNSEL

October 17, 1979

9-236A010

AREA CODE 704  
372-6730

**Oct 23 1979**  
Date **50.00**  
Fee **50.00**

**ICC Washington, D. C.**

Secretary of Interstate Commerce Commission  
Ms. Mildred Lee  
12th and Constitution Avenue, N.W.  
Room 2303  
Washington, D.C. 20423

10924  
RECORDATION NO. \_\_\_\_\_ Filed 1425  
**OCT 23 1979-8 45 AM**  
INTERSTATE COMMERCE COMMISSION

Dear Ms. Lee:

Enclosed is the original and counterpart of a Security Agreement between North Carolina National Bank and Robert W. Wilson by which the Bank has been granted a lien in four (4) 100 ton, 20,000 gallon capacity tank cars manufactured by ACF Industries, Inc. (the tank cars are more specifically identified in the Security Agreement) in accordance with §11303 of the Interstate Commerce Commission Act (Title 49). I would appreciate your filing this Security Agreement in order that the Bank's lien on the cars will be registered. Please return either the original or the counterpart Security Agreement to me with information indicating the filing thereof.

Enclosed is a firm check in the amount of \$50.00 to cover the filing fee.

Very truly yours,

*William L. Rikard, Jr.*  
William L. Rikard, Jr.

WLRjr:sk

Enclosures

Oct 23 1979  
FEB 23 1980  
FEB 23 1980

**Interstate Commerce Commission**  
**Washington, D.C. 20423**

10/30/79

**OFFICE OF THE SECRETARY**

William L. Rikard, Jr.

Grier, Parker, Poe, Thompson, Bernstein, Gage & Preston  
1100 Cameron, Brown Building  
301 South McDowell Street  
Charlotte, North Carolina 28204

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/23/79 at 8:45am, and assigned re-recording number(s). 10924

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

10924

RECORDATION NO. .... Filed 1425

OCT 23 1979 - 8 45 AM

SECURITY AGREEMENT

INTERSTATE COMMERCE COMMISSION

ROBERT W. WILSON, a resident of Mecklenburg County, North Carolina, (hereinafter referred to as "Debtor"), in consideration of money loaned of even date herewith as evidenced by that promissory note/in the principal amount of One Hundred Thirty-Seven Thousand and no/100 Dollars (\$137,000.00) (hereinafter the "Note"), and to secure payment of the Note and all obligations thereunder and hereunder, does hereby grant to NORTH CAROLINA NATIONAL BANK, a national banking association, with its principal place of business in Charlotte, North Carolina, and an office in Hickory, North Carolina (P. O. Box 2408) (hereinafter referred to as "Secured Party"), a security interest under the North Carolina Uniform Commercial Code, in and to the following property, whether now owned or hereafter acquired, (hereinafter referred to as the "Collateral"), as well as the proceeds thereof, including all accounts and contract rights arising or to arise with respect thereto:

- (1) Four (4) 100 ton, 20,000 gallon capacity tank cars, class DOT 111A100W1, manufactured by ACF Industries, Incorporated, the cars themselves bearing the following identification numbers respectively: RUSX 276, RUSX 277, RUSX 278 and RUSX 279 (hereinafter the "tank cars").
- (2) The Pro Rata Net Operating Profit of Owner's (Debtor's) Cars due Debtor under the Railroad Car Management Agreement dated September 6, 1979, between Debtor and U. S. Rail Services, Inc. (hereinafter the "Management Agreement").
- (3) Subject to the terms and conditions of the Management Agreement, all contract and lease rights, including payments thereunder, with respect to the tank cars.
- (4) Subject to applicable provisions of the Management Agreement, the proceeds of any insurance carried on the Collateral; all insurance which will arise with respect to the Collateral.

Accordingly, Debtor and Secured Party further agree as follows:

(1) Secured Party acknowledges it has been provided with a copy of the Management Agreement, and consents to Debtor's execution of that Agreement and the operation and management of the tank cars pursuant to the terms and conditions of the Management Agreement.

(2) At its option, Secured Party may discharge taxes, liens or security interests or other encumbrances at any time levied or placed on the Collateral, may pay for insurance on the Collateral, may pay for the maintenance and preservation of the Collateral, or may cure any default in the Management Agreement by Debtor. Debtor agrees to reimburse Secured Party on demand for any payment made, or any expense incurred by Secured Party, pursuant to the foregoing authorization. Until default Debtor may have possession of the Collateral and use it in any lawful manner not inconsistent with this agreement and not inconsistent with any policy of insurance thereon.

(3) The obligation of the Debtor to the Secured Party, or the Collateral may, from time to time, in whole or in part, be renewed, extended, modified, accelerated, compromised, settled or released by the Secured Party, and that Collateral or liens for Debtor's obligations to Secured Party may, from time to time, in whole or in part, be exchanged, sold, released, or surrendered by the Secured Party, upon notice to the Debtor and all without in any way affecting or releasing the liability of the Debtor upon its obligation to the Secured Party. The Secured Party shall use reasonable care in the custody and preservations of any Collateral which comes into its possession but need not take any steps to preserve rights against prior parties. The Secured Party shall have no obligation to comply with any recording, re-recording, filing, re-filing or other legal requirements necessary to establish or maintain the validity, priority or enforceability of or the Secured Party's right in and to the Collateral or any part thereof. The Secured Party may

exercise any right of the Debtor with respect to any Collateral. In any statutory or non-statutory proceeding, affecting the Debtor or the Collateral, the Secured Party or nominee may, whether or not a default exists and regardless of the amount owing to the Secured Party by the Debtor, file a proof of claim for the full amount of any Collateral and vote such claim for the full amount thereof: (a) for or against any proposal or resolution; (b) for a Trustee or Trustees or for other representatives of creditors; (c) for the acceptance or rejection of any proposed arrangement, plan or reorganization, wage earner's plan, composition or extension, and Secured Party or its nominee may receive any payment or distribution and give acquittance therefor and may exchange or release Collateral.

(4) Debtor shall execute and deliver to Secured Party or Secured Party's designee contemporaneously with the execution of this agreement financing statements and at any time or times hereafter, at the request of Secured Party, such other financing statements, security agreements, assignments, certificates of title, affidavits, reports, notices and all other documents that Secured Party may request in a form satisfactory to Secured Party, to perfect and to continue perfection of Secured Party's security interest in the Collateral. Debtor shall pay all filing fees and reimburse Secured Party for all costs and expenses of any kind incurred in any way in connection with the Collateral.

(5) If the Debtor fails to perform any agreement contained herein, or fulfill any obligation under the Note; if default occurs in the punctual payment of any sum due and owing the Secured Party by the Debtor; if Debtor shall die or be declared incompetent; if any representation or warranty made by Debtor herein or in any writing furnished in connection with or pursuant to obtaining the loan evidenced by the Note shall be false in any material respect on the date as of which made; if any report, certificate, financial statement or other instrument or document delivered by Debtor to Secured Party is at any time false or misleading; if Debtor shall fail to remedy any breach of any obligation under the Management Agreement, the Agreement or the Note after notice thereof; if there is any impairment of the Collateral or any part thereof, or any decline

or extraordinary depreciation in the value of the Collateral which causes the Collateral to become unsatisfactory as to character or value; if the Debtor shall become insolvent or if insolvency is eminent or threatened; if the Debtor commits an act of bankruptcy, makes an assignment for the benefit of creditors, calls a meeting of any creditors, appoints a committee of creditors, offers or receives from any creditors a composition or extension of their indebtedness, makes or sends a notice of an intended bulk transfer, grants a security interest in the Collateral, except with the permission of the Secured Party, makes any misrepresentation to the Secured Party for the purpose of obtaining credit or an extension of credit from the Secured Party, fails to pay any tax including property taxes upon the Collateral, commences any proceeding, suit or action for adjudication as a bankrupt, reorganization, composition, extension, arrangement, wage earner's plan, receivership, liquidation or dissolution under Federal or State law, applies for the appointment of a receiver, conservator, rehabilitator, or similar officer or committee, then it is agreed that the Debtor shall be in default hereunder and at that time or at any time thereafter, Secured Party shall have, in addition to all other rights and remedies herein or elsewhere provided, the remedies of a Secured Party after default under the North Carolina Uniform Commercial Code. In the event of any such default and at any time thereafter, Secured Party may, at its option, declare the Note, together with accrued interest then owing to Secured Party, immediately due and payable, and the Debtor shall forthwith pay all sums then owing to Secured Party on demand; in addition, the Secured Party may immediately proceed to foreclose its lien or security interest on any or all of the Collateral, and do all other things provided by law, and by this Security Agreement or by the terms of the Note. The Debtor shall, upon request of the Secured Party make the Collateral available to the Secured Party at a place designated by the Secured Party which is reasonably convenient to Secured Party and the Debtor. Secured Party will give Debtor notice of any sale of the Collateral as required by the North Carolina Uniform Commercial Code. The Secured Party may apply the net proceeds of any sale, lease or

other disposition of the Collateral, after deducting all costs and expenses of sale, leasing or the like of the Collateral or any way relating to the rights of the Secured Party with respect to the Collateral, to the payment in whole or in part of the Note. The Debtor shall remain liable to the Secured Party for the payment of the deficiency under any obligation owed by the Debtor to the Secured Party.

(6) The Secured Party shall not by any acts, delay, omission or otherwise be deemed to have waived any of its right or remedies under this Agreement, under the Uniform Commercial Code or otherwise, and no waiver of the Secured Party's rights shall be valid whatsoever unless in writing, signed by the Secured Party and then only to the extent therein set forth. Waiver by the Secured Party of any right or remedy on any one occasion shall not be construed as a bar to any right or remedy which the Secured Party would otherwise have on any future occasion. No executory agreement unless in writing and signed by the Secured Party and no course of dealing between the Debtor and Secured Party shall be deemed to change or modify or discharge in whole or in part this Agreement. All rights and remedies of the Secured Party shall be cumulative and may be exercised singly or concurrently. The Secured Party may assign or transfer this Agreement and any of its rights to the Collateral to any assignee or transferee, and such assignee or transferee shall thereupon become vested with all powers and rights given to the Secured Party in respect thereof hereunder.


(7) This Agreement may be terminated by the Debtor upon written notice to the Secured Party if, and only if, the Note shall then be paid in full. The Secured Party may terminate this Agreement upon written notice to the Debtor.

(8) Any notice to the Secured Party shall be deemed effective only if sent to and received at the branch, division or department of the Secured Party conducting the transaction or transactions hereunder. Any notice to the Debtor shall be deemed sufficient if sent to the Debtor addressed as follows:


ROBERT W. WILSON  
2128 Forest Drive  
Charlotte, N.C. 28211

(9) This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. Any provision hereof which may prove unenforceable under any law shall not affect the validity of any other provision hereof.


IN WITNESS WHEREOF, the Debtor has hereunto set his hand and seal, this the 17th day of October, 1979.

 (Seal)  
ROBERT W. WILSON

NORTH CAROLINA NATIONAL BANK

By:   
Title: Vice President

Attest:

  
Asst. Secretary

(Corporate Seal)



STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, Sandra K. Jollyaw, a Notary Public of said  
County and State, do hereby certify that Robert W. Wilson personally  
appeared before me this day and acknowledged the execution of the  
foregoing instrument.

This the 17<sup>th</sup> day of October, 1979.

Sandra K. Jollyaw  
Notary Public

My Commission Expires:

Nov. 3, 1980

STATE OF NORTH CAROLINA  
COUNTY OF Mecklenburg

This the 14<sup>th</sup> day of October, 1979, personally came before me  
Graham W. Denton Jr. who, being by me duly sworn  
says that he is the Vice President of North Carolina National Bank  
and the seal affixed to the foregoing instrument in writing is the  
corporate seal of the Company and that said writing was signed and  
sealed by him in behalf of said Corporation by its authority duly  
given. And the said Graham W. Denton Jr.  
acknowledged said writing to be the act and deed of said Corporation.

Deborah Anne Fink  
Notary Public

My Commission Expires:

June 5, 1980